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**HIGH COURT OF CHHATTISGARH : BILASPUR**
**DIVISION BENCH**

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**CORAM : HON'BLE SHRI H.L. DATTU, CJ &**
**HON'BLE SHRI V.K. SHRIVASTAVA, J.**

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**WRIT APPEAL NO. 36 OF 2007**

**APPELLANT**

Sheetal Das Mahant, aged about 55 years, son of Late Shri Dayalu Das Mahant, Ex-Sub Inspector (Police) resident of village and post Chhal Via Kharsia, Dist. Raigarh, CG.

**Versus**

**RESPONDENTS**

1) State of Chhattisgarh, through the Chief Secretary, Mantralay Home Department, Dau Kalyan Singh Bhawan, Raipur, CG.

2) Director General of Police, Police Head Quarters, Chhattisgarh Government, Raipur, CG.

3) Inspector General of Police, Raipur, CG.

4) Deputy Inspector General of Police, Bilaspur (CG).

5) Superintendent of Police, Dist. Bilaspur, CG.

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**Present:**

Shri Bharat Rajput, counsel for the appellant.
Shri N.K. Agrawal, Dy. Advocate General for respondents/State.

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**ORAL ORDER**
**(Passed on 2nd April, 2007)**

The following oral order of the Court was passed by H.L. Dattu, CJ.

This appeal is directed against the order dated 8-1-2007 passed by the learned Single Judge in Writ Petition No. 692/2004. By the impugned order, the learned single Judge has sustained the orders

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passed by the Director General of Police (Revisional Authority) dated 1-4-2002.

2) Brief facts are that :

Petitioner was appointed as Assistant Sub-Inspector at Police Station Shakti Hall – Seepat. While in service, he was issued a notice *inter alia* directing him to show cause why disciplinary proceedings should not be initiated against him. After receipt of said show cause notice, the petitioner had filed his reply.

3) Not being satisfied with explanation so offered by the petitioner, the Disciplinary Authority of the Police Force had thought it fit to issue a charge memo dated 30-11-1997. The delinquent officer had replied that charge memo.

4) The Disciplinary Authority had appointed an enquiry officer to enquire into the allegations made in the charge memo. The enquiry officer after holding an enquiry had submitted his report, the evidence recorded and other relevant documents to the Disciplinary Authority i.e., the Superintendent of Police, Bilaspur. The enquiry officer found the delinquent officer guilty of the misconduct. The Disciplinary Authority after concurring with the findings of the enquiry officer imposed a punishment of withholding one increment with cumulative effect.

5) Aggrieved by the aforesaid order passed by the Superintendent of Police, Bilaspur (Disciplinary Authority), the delinquent officer had filed an appeal before the Deputy Inspector General of Police, Bilaspur Division, Bilaspur. The appeal was rejected by the First Appellate Authority,

6) Petitioner, thereafter had filed a revision before the Director General of Police. In the revision so filed, petitioner's primary contention was that the punishment that was imposed by the Disciplinary Authority is not proportionate with the gravity of charges alleged and proved against the petitioner.

7) The revisional authority while disposing of the revision petition filed by the petitioner in exercise of his power under the Regulation 270 (4) of the Police Regulation, has enhanced the punishment and thereby terminated the services of the petitioner. Aggrieved by the same, the petitioner filed W.P. No.692/2004 before this Court. One of the contentions canvassed by the learned counsel appearing for the petitioner in the writ petition was that before enhancing the punishment in the revision filed by the petitioner, the revisional authority ought to have afforded an opportunity of hearing to the petitioner. In aid of his submission, petitioner had relied upon Regulation 270 of the Police Regulations.

8) Learned Single Judge has rejected the writ petition on the ground that the revisional authority had issued a show cause notice to the petitioner and petitioner had replied to the same and, therefore, there is full compliance with the statutory regulation. Aggrieved by the said order passed by learned Single Judge, appellant is before us in this appeal.

9) Learned counsel appearing for the appellant reiterated the contentions canvassed before the learned Single Judge and further submits that the learned Single Judge may not be justified in saying that mere issuance of show cause notice would fulfill the requirements of the Statutory Regulation.

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10) *Per contra*, Shri N.K. Agrawal, learned Deputy Advocate General appearing for the State sought to justify the impugned order passed by learned single Judge.

11) In order to appreciate the contentions canvassed by learned counsel for the appellant, the provisions of Regulation 270 of Regulations require to be noticed. They are as under:

> "270.[(1) Every order of punishment of exoneration, whether original or appellate shall be liable to revision suo-moto by any authority superior to the authority making the order].
>
> (2) Every appellate order by a final appellate authority shall be liable to revision by such final appellate authority, on application made in that behalf by the person against whom the order has been passed.
>
> Explanation.- For the purposes of this clause, the expression "final appellate authority" means the final authority empowered to hear an appeal under Police Regulation 262.
>
> (3) The provisions of Regulations 266, 267, 268 and 271 shall, as nearly as may be, apply to an application for revision.
>
> [(4) The revising authority may for reasons to be recorded in writing exonerate or may remit, vary or enhance the punishment imposed or may order a fresh enquiry or the taking of further evidence in the case:
>
> Provided that it shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard]."

12) Sub-regulation (1) and (2) of Regulation 270 authorizes the person aggrieved and also the authority under the Act to suo motu revise the

order passed by a subordinate authority. Sub-regulation (2) of Regulation 270 provides that a person if he is aggrieved by the order passed by the final appellate authority, can also make an application before the revisional authority to revise the order so passed by the first appellate authority.

13) The meaning of expression 'final appellate authority' is statutorily defined to mean final authority empowered to hear an appeal under Police Regulation 262.

14) Sub-regulation (4) of Regulation 270 authorizes the revising authority either to exonerate or may remit, vary or enhance the punishment imposed or may order a fresh enquiry or order for taking further evidence in the matter. Proviso appended to sub-regulation (4) of Regulation 270 specifically states that the revising authority shall not vary or reverse any order unless a notice has been served on the parties interested and opportunity given to them for being heard. (*Emphasis supplied by us*).

15) Learned Single Judge in his order observed that mere issuance of a show cause notice is sufficient to exercise the powers by the revising authority under sub-regulation (4) of Regulation 270. We are afraid that the said reasoning of learned Single Judge is not in consonance with the sub-regulation (4) of Regulation 270.

16) Proviso appended to sub-regulation (4) of Regulation 270 speaks of two things; firstly, a notice requires to be served on the parties interested in the *lis* and secondly an opportunity of being heard requires to be granted before the revising authority varies or revising an order. That only means it is not just issuance of show cause notice, but also an opportunity of being heard requires to be granted

to the parties interested. This aspect of the matter is not noticed by the learned Single Judge. Therefore, we cannot sustain the order so passed.

17) In view of the above, the following:

Order

(i) The appeal is allowed.

(ii) The order passed by learned single Judge is set aside.

(iii) The matter is remanded back to revisional authority to re-do the matter in accordance with law keeping in view the observations made by us in the course of order.

(iv) All other contentions are left open to the parties.

(v) Ordered accordingly.

**Sd/-**
**Chief Justice**

**Sd/-**
**V.K.Shrivastava**
**Judge**